

care facility (see section 1905(c) of the Act).

[47 FR 3106, Jan. 22, 1982, as amended at 50 FR 48571, Nov. 26, 1985; 50 FR 51514, Dec. 18, 1985; 54 FR 19164, May 4, 1989; 58 FR 64894, Dec. 10, 1993; 60 FR 16374, Mar. 30, 1995; 61 FR 10278, Mar. 13, 1996]

EFFECTIVE DATE NOTE: At 61 FR 10278, Mar. 13, 1996, in § 416.414, paragraph (a) introductory text was revised, effective May 13, 1996. For the convenience of the reader, the superseded text is set forth below.

§ 416.414 Amount of benefits; eligible individual or eligible couple in a medical care facility.

(a) *General rule.* There is a reduced SSI benefit rate for persons who are in medical care facilities where more than 50 percent of the cost of their care is paid under a State plan approved under title XIX of the Social Security Act (Medicaid). This reduced SSI benefit rate also applies to persons who are in medical care facilities where more than 50 percent of the cost of care would have been paid under an approved Medicaid State plan but for the application of section 1917(c) of the Act due to a transfer of assets for less than fair market value. Persons to whom this benefit rate applies are—

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§ 416.415 Amount of benefits; eligible individual is disabled child under age 18.

(a) If you are a disabled child under age 18 and meet the conditions in § 416.1165(i) for waiver of deeming, your parents' income will not be deemed to you and your benefit rate will be \$30 a month.

(b) If you are a disabled child under age 18 and do not meet the conditions in § 416.1165(i) only because your parents' income is not high enough to make you ineligible for SSI but deeming of your parents' income would result in an SSI benefit less than the amount payable if you received benefits as a child under § 416.1165(i), your benefit will be the amount payable if you received benefits as a child under § 416.1165(i).

[60 FR 361, Jan. 4, 1995]

§ 416.420 Determination of benefits; general.

Benefits shall be determined for each month. The amount of the monthly payment will be computed by reducing

the benefit rate (see §§ 416.410, 416.412, 416.413, and 416.414) by the amount of countable income as figured under the rules in subpart K of this part. The appropriate month's countable income to be used to determine how much your benefit payment will be for the current month (the month for which a benefit is payable) will be determined as follows:

(a) *General rule.* We use the amount of your countable income in the second month prior to the current month to determine how much your benefit amount will be for the current month. However, if you have been receiving an SSI benefit and receiving a social security insurance benefit and the latter is increased on the basis of the cost-of-living adjustment or because your benefit is recomputed, we will compute the amount of your SSI benefit for January, the month of an SSI benefit increase by including in your income the amount by which your social security benefit in January exceeds the amount of your social security benefit in November. Similarly, we will compute the amount of your SSI benefit for February by including in your income the amount by which your social security benefit in February exceeds the amount of your social security benefit in December.

Example 1. Mrs. X's benefit amount is being determined for September (the current month). Mrs. X's countable income in July is used to determine the benefit amount for September.

Example 2. Mr. Y's SSI benefit amount is being determined for January (the current month). Mr. Y has social security income of \$100 in November, \$100 in December, and \$105 in January. We find the amount by which his social security income in January exceeds his social security income in November (\$5) and add that to his income in November to determine the SSI benefit amount for January.

(b) *Exceptions to the general rule—(1) First month of eligibility or eligibility after a month of ineligibility.* We use your countable income in the current month to determine your benefit amount for the first month you are eligible for SSI benefits or for the first month you become eligible for SSI benefits after at least a month of ineligibility. Your payment for such month will be prorated according to the number of days in the month that you are

eligible beginning with the date of your application or the date on which you attain (or reattain) eligibility, whichever is later.

Example: Mrs. Y applies for SSI benefits in September. We use Mrs. Y's countable income in September to determine the amount of her benefit for September. The same would be true if Mrs. Y had been ineligible for SSI benefits in August and again became eligible for such benefits in September.

(2) *Second month of initial eligibility or eligibility after a month of ineligibility.* We use your countable income in the first month prior to the current month to determine how much your benefit amount will be for the current month when the current month is the second month of initial eligibility or the second month following at least a month of ineligibility. However, if you have been receiving both an SSI benefit and a social security insurance benefit and the latter is increased on the basis of the cost-of-living adjustment or because your benefit is recomputed, we will compute the amount of your SSI benefit for January, the month of an SSI benefit increase, by including in your income the amount by which your social security benefit in January exceeds the amount of your social security benefit in December.

Example: Mrs. Y was initially eligible for SSI benefits in September. Her benefit amount for October will be based on her countable income in September (first prior month).

(3) *Third month of initial eligibility or eligibility after a month of ineligibility.* We use your countable income according to the rule set out in paragraph (a) of this section to determine how much your benefit amount will be for the third month of initial eligibility or the third month after at least a month of ineligibility.

Example: Mrs. Y was initially eligible for SSI benefits in September. Her benefit amount for November will be based on her countable income in September (second prior month).

(4) *Income derived from certain assistance payments.* We use your income in the current month from the programs listed below to determine your benefit amount for that same month. The assistance programs are as follows:

(i) Aid to Families with Dependent Children under title IV-A of the Social Security Act (the Act);

(ii) Foster Care under title IV-E of the Act;

(iii) Refugee Cash Assistance pursuant to section 412(e) of the Immigration and Nationality Act;

(iv) Cuban and Haitian Entrant Assistance pursuant to section 501(a) of Pub. L. 96-422; and

(v) Bureau of Indian Affairs general assistance and child welfare assistance pursuant to 42 Stat. 208 as amended.

(c) *Payment of benefits.* See subpart E of this part for the rules on payments and the minimum monthly benefit (as explained in § 416.503).

[50 FR 48571, Nov. 26, 1985; 50 FR 51514, Dec. 18, 1985, as amended at 54 FR 31657, Aug. 1, 1989]

§ 416.421 Determination of benefits; computation of prorated benefits.

(a) In the month you are first eligible for benefits, your benefit will be prorated according to the number of days in the month that you are eligible beginning with the date of application or the date on which you meet all eligibility requirements, whichever is later. In the month that you reacquire eligibility after a month or more of ineligibility (see § 416.1321(b)), your benefit will be prorated according to the number of days in the month that you are eligible beginning with the date on which you meet all eligibility requirements.

(b) In determining the amount of your benefit for a month in which benefits are to be prorated, we first compute the amount of the benefit that you would receive for the month as if proration did not apply. We then determine the date on which you meet all factors of eligibility. (The income limits must be met based on the entire month and the resource limit must be as of the first day of the month.) We then count the number of days in the month beginning with the day on which you first meet all factors of eligibility through the end of the month. We then multiply the amount of your unprorated benefit for the month by the number of days for which you are eligible for benefits and divide that figure by the number of days in